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26 August 1974

CHINESE, ENGLISH, FRENCH AND RUSSIAN ONLY

SECOND COMMITTEE

Corrigendum

Page 7, provision XIII, formula C

First line: For enjoy equal freedom read enjoy equally freedom

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24 August 1974

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Formulation of main trends

INTRODUCTION

The sole purpose of this informal working paper is to reflect in generally acceptable formulations the main trends which have emerged from the proposals submitted either to the United Nations Sea-Bed Committee or to the Conference itself.

The fact of including these formulations does not imply any opinion on the degree of support they have commanded either in the preparatory stage or in the proceedings of the current session of the Conference. It does not imply either that all the proposals from which these formulations have been taken have been the subject of discussion. The inclusion of a provision in this paper, whether or not only one formula appears, does not necessarily imply that there are no other opinions concerning these questions or that all or most delegations agree on the necessity for such a provision.

All the proposals submitted to the United Nations Sea-Bed Committee and to the Conference are maintained and may be considered by this Committee at any time. Thus, the preparation of this document and its acceptance by the Committee as a working paper in no way signifies that these proposals have been withdrawn. There is no question of taking any decisions at the present stage, in accordance with the method of work adopted by the Committee at its meeting on 3 July, once this task has been carried out, the item will be "frozen" and the Committee will pass on to the next item. No decision has to be taken until all the closely interrelated items have been thoroughly discussed.

Since the purpose of this paper is to focus the discussion of each of the items on the fundamental issues, leaving until later the consideration of supplementary rules and drafting points, the paper does not include all the proposals appearing in volume III of the report of the Sea-Bed Committee or all the variants, many of which reflect only drafting changes, appearing in volume IV of the same report.

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16. Archipelagos

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16. Archipelagos

PROVISION I

Formula A

These articles apply only to archipelagic States.

Formula B

A coastal State with one or more off-lying archipelagos, as defined in provision II, formula A, para. 2, which form an integral part of its territory, shall have the right to apply the provisions of articles ... to such archipelagos upon the making of a declaration to that effect.

Formula C

The method applied to archipelagic States for the drawing of baselines shall also apply to archipelagos that form part of a State, without entailing any change in the natural régime of the waters of such archipelagos or of their territorial sea.

PROVISION II

Formula A

1. An archipelagic State is a State constituted wholly by one or more archipelagos and may include other islands.

2. For the purpose of these articles an archipelago is a group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated that such islands, waters and other natural features form an intrinsic geographical, economic and political entity, or which historically have been regarded as such.

Formula B

1. On ratifying or acceding to this Convention, a State may declare itself to be an archipelagic State where:

(a) the land territory of the State is entirely composed of three or more islands;  
and

(b) it is possible to draw a perimeter, made up of a series of lines or straight baselines, around the outermost points of the outermost islands in such a way that:

(i) no territory belonging to another State lies within the perimeter,

(ii) no baseline is longer than ... nautical miles, and

(iii) the ratio of the area of the sea to the area of land territory inside the perimeter does not exceed ... provided that any straight baseline between two points on the same island shall be drawn in conformity with

2. A declaration under paragraph 1 above shall be accompanied by a chart showing the perimeter and a statement certifying the length of each baseline and the ratio of land to sea within the perimeter.

3. Where it is possible to include within a perimeter drawn in conformity with paragraph 1 above only some of the islands belonging to a State, a declaration may be made in respect of those islands. The provisions of this Convention shall apply to the remaining islands in the same way as they apply to the islands of a State which is not an archipelagic State and references in this article to an archipelagic State shall be construed accordingly.

### PROVISION III

#### Formula A

An archipelagic State may employ the method of straight baselines joining the outermost points of the outermost islands and drying reefs of the archipelago in drawing the baselines from which the extent of the territorial sea, economic zone and other special jurisdictions are to be measured.

#### Formula B

... (same as formula A) ... or may employ as a baseline any non-navigable continuous reefs or shoals lying between such points.

#### Formula C

In the case of an archipelagic State, or of an archipelago that forms part of a State, the baselines from which the adjacent sea over which the State exercises its sovereignty and jurisdiction shall be measured may be drawn by straight lines which join the outermost points of the outermost islands and drying reefs of the archipelago.

### PROVISION IV

The drawing of such baselines shall not depart to any appreciable extent from the general configuration of the archipelago.

### PROVISION V

Baselines shall not be drawn to and from low-tide elevations unless lighthouses or similar installations which are permanently above sea level have been built on them or where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the nearest island.

### PROVISION VI

The system of straight baselines shall not be applied by an archipelagic State in such a manner as to cut off the territorial sea of another State as determined under article ... of chapter ... of this Convention.

PROVISION VII

An archipelagic State shall clearly indicate its straight baselines on charts to which due publicity shall be given.

PROVISION VIII

An archipelagic State may draw baselines in conformity with articles ... (bays) and ... (river mouths) of this Convention for the purpose of delimiting internal waters.

PROVISION IX

Formula A

The waters enclosed by the baselines, which waters are referred to in these articles as archipelagic waters, regardless of their depth or distance from the coast, belong to, and are subject to the sovereignty of, the archipelagic State to which they appertain.

Formula B

(Same as Formula A above) ... this sovereignty is exercised subject to the provisions of these articles and to other rules of international law.

Formula C

In such cases, the waters enclosed by the baselines shall be considered internal waters, though vessels of any flag may sail in them in accordance with the provisions laid down by the archipelagic State.

PROVISION X

The sovereignty and rights of an archipelagic State extend to the air space over its archipelagic waters as well as to the water column and the sea-bed and subsoil thereof, and to all of the resources contained therein.

PROVISION XI

Formula A

If the drawing of such baselines encloses a part of the sea which has traditionally been used by an immediately adjacent neighbouring State for direct communication, including the laying of submarine cables and pipelines, between one part of its national territory and another part of such territory, the continued right of such communication shall be recognized and guaranteed by the archipelagic State.

Formula B

[Same as formula A above] for direct access and all forms of communications, including the laying of submarine cables and pipelines, between one part of its national territory and another part of such territory, such rights of direct access and communications shall continue to be recognized and guaranteed by the archipelagic State.

Formula C

In addition to the right of passage through the searoutes designated for international navigation, an archipelagic State shall recognize, for the sole benefit of such of its neighbouring States as are enclosed or partly enclosed by its archipelagic waters, a right of innocent passage through these waters for the purpose of gaining access to and from any part of the high seas by the shortest and most convenient routes.

To this effect, an archipelagic State shall enter into arrangements with any such neighbouring States at the request of the latter.

PROVISION XII

Formula A

Where a declaration made in accordance with article ... has the effect of enclosing as archipelagic waters areas which previously had been considered as part of the high seas, the archipelagic State shall enter into consultation, at the request of any other State, with a view to safeguarding the rights and interests of such other State regarding any existing uses of the sea in such areas, except the navigational uses provided for in article ..., but including, inter alia, fisheries, submarine cables and pipelines.

Formula B

In any situation where the archipelagic waters, or territorial waters measured therefrom, of an archipelagic State include areas which previously had been considered as high seas, that archipelagic State, in the exercise of its sovereignty over such areas, shall give special consideration to the interests and needs of its neighbouring States with regard to the exploitation of living resources in these areas, and, to this effect, shall enter into an agreement with any neighbouring State, at the request of the latter, either by regional or bilateral arrangements, with a view to prescribing modalities entitling the nationals of such neighbouring State to engage and take part on an equal footing with its nationals and, where geographical circumstances so permit, on the basis of reciprocity, in the exploitation of living resources therein.

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PROVISION XIII

Formula A

Subject to the provisions of provisions XIV to XVIII, ships of all States shall enjoy the right of innocent passage through archipelagic waters.

Formula B

1. Where parts of archipelagic waters have before the date of ratification of this Convention been used as routes for international navigation between one part of the high seas and another part of the high seas or the territorial sea of another State, the provisions of articles ... of this Convention apply to those routes (as well as to those parts of the territorial sea of the archipelagic State adjacent thereto) as if they were straits. A declaration made under paragraph 1 of this article shall be accompanied by a list of such waters which indicates all the routes used for international navigation, as well as any traffic separation schemes in force in such waters in conformity with articles ... of this Convention. Such routes may be modified or new routes created only in conformity with articles ... of this Convention.

2. Within archipelagic waters, other than those referred to in paragraph 1 the provisions of articles ... (innocent passage) apply.

Formula C

All ships shall enjoy equal freedom of passage in archipelagic straits, the approaches thereto, and those areas in the archipelagic waters of the archipelagic State along which normally lie the shortest searoutes used for international navigation between one part and another part of the high seas.

PROVISION XIV

1. An archipelagic State may designate searoutes suitable for the safe and expeditious passage of foreign ships through its archipelagic waters, and may restrict the passage of such ships, or any types or classes of such ships, through those waters to any such searoutes.

2. An archipelagic State may, from time to time, after giving due publicity thereto, substitute other searoutes for any searoutes previously designated by it under the provisions of this article.

3. An archipelagic State which designates searoutes under the provisions of this article may also prescribe traffic separation schemes for the passage of such ships through those searoutes.

4. In the designation of searoutes and the prescription of traffic separation schemes under the provisions of this article an archipelagic State shall, inter alia, take into account:

(a) the recommendations or technical advice of competent international organizations;



- (b) any channels customarily used for international navigation;
- (c) the special characteristics of particular channels; and
- (d) the special characteristics of particular ships.

5. An archipelagic State shall clearly demarcate all sealanes designated by it under the provisions of this article and indicate them on charts to which due publicity shall be given.

#### PROVISION XV

1. An archipelagic State may make laws and regulations, not inconsistent with the provisions of these articles and having regard to other applicable rules of international law, relating to passage through its archipelagic waters, or the sealanes designated under the provisions of this article, which laws and regulations may be in respect of all or any of the following:

- (a) the safety of navigation and the regulation of marine traffic;
  - (b) the installation, utilization and protection of navigational aids and facilities;
  - (c) the installation, utilization and protection of facilities or installations for the exploration and exploitation of the marine resources, including the resources of the sea-bed and subsoil, of the archipelagic waters;
  - (d) the protection of submarine or aerial cables and pipelines;
  - (e) the conservation of the living resources of the sea;
  - (f) the preservation of the environment of the archipelagic State, and the prevention of pollution thereto;
  - (g) research in the marine environment, and hydrographic surveys;
  - (h) the prevention of infringement of the fisheries regulations of the archipelagic State, including inter alia those relating to the stowage of gear;
  - (i) the prevention of infringement of the customs, fiscal, immigration, quarantine, sanitary and phytosanitary regulations of the archipelagic State; and
  - (j) the preservation of the peace, good order and security of the archipelagic State.
2. The archipelagic State shall give due publicity to all laws and regulations made by it under the provisions of this article.

PROVISION XVI

Formula A

Foreign ships exercising the right of innocent passage through the archipelagic waters or the sealanes designated under the provisions of this article shall comply with all laws and regulations made by the archipelagic State under the provisions of this article.

Formula B

Foreign ships exercising the right of free passage through the archipelagic waters or the sealanes designated under the provisions of this article shall comply with the relevant laws and regulations made by the archipelagic State under the provisions of this article.

PROVISION XVII

Formula A

If any foreign warship does not comply with the laws and regulations of the archipelagic State concerning its passage through the archipelagic waters or the sealanes designated under the provisions of this article and disregards any request for compliance which is made to it, the archipelagic State may suspend the passage of such warship and require it to leave the archipelagic waters by such safe and expeditious route as may be designated by the archipelagic State.

Formula B

All ships passing through the straits and waters of archipelagic States shall not in any way endanger the security of such States, their territorial integrity or political independence. Warships passing through such straits and waters may not engage in any exercises or gunfire, use any form of weapon, launch or take on aircraft, carry out hydrographic surveys or engage in any similar activity unrelated to their passage. All ships shall inform the archipelagic State of any damage, unforeseen stoppage, or of any action rendered necessary by force majeure.

PROVISION XVIII

Formula A

Subject to the provisions of paragraph ... of this article, an archipelagic State may not suspend the innocent passage of foreign ships through sealanes designated by it under the provisions of this article, except when essential for the protection of its security, after giving due publicity thereto and substituting other sealanes for those through which innocent passage has been suspended.

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Formula B

An archipelagic State may not interrupt or suspend the transit of ships through its straits or archipelagic waters, or take any action which may impede their passage.

PROVISION XIX

The foregoing provisions shall not affect the established régime concerning coastlines deeply indented and cut into and to the waters enclosed by a fringe of islands along the coast, as expressed in article ...

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